GOVERNMENT BUSINESS—BILLS
(contd.)

V. General Principles of the Bill pertaining to Law regarding Partnership in Mysore (*concld.*)

Mr. Belur SRINIVASIENGAR said that the provision about voluntary registration of firms might be examined in detail at the select committee stage.

Mr. T. MARIAPPA suggested that petty businessmen with a small capital of less than Rs. 500 should not be compelled to register themselves. He added that Dewan Bahadur Harbilas Sarda had exhaustively dealt with this point in his dissenting minute attached to the report of a select committee of the Indian Legislative Assembly.

The DEWAN said that these suggestions would be kept in view.

The general principles were then put to vote and passed.

VI. General Principles of the Bill ot Amend the Mysore Workmen's Compensation Regulation, XIV of 1928.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa) explained the general principles of the bill as follows :—

"The present Workmen's Compensation Regulation, No. XIV of 1928, was based on the British Indian Act of 1923. The Indian Act has since undergone three amendments in 1926, 1929 and 1933, respectively.

"The Workmen's Compensation Act of 1923 was experimental in character and the amendments introduced in 1926 and 1929 were designed to remedy admitted defects and embody changes of a non-controversial character. Subsequently, the Royal Commission on Labour reviewed the entire position in the light of further evidence supplied to them and made a number of recommendations on the subject. The Government of India, in following them closely, have passed a further amending Act in 1933 embodying a large number of suggestions contained in the Report of the Royal Commission.

"The changes in the law on the subject enacted in British India are found to be generally suitable to the conditions in Mysore and it is therefore proposed to undertake legislation on similar lines in Mysore by an amending bill.

"The more important changes proposed to be introduced are explained below.

"The definition of the term 'dependant' has been so recast as to divide them into two categories, placing in the first, those who are practically in all cases actually dependent, and in the second, those who may or may not be in that position. Certain additions have been made to the second category by the inclusion of illegitimate children and widowed daughters-in-law.

"The reference to manual labour in Section 2 (1) (*l*) has been omitted as there are no manual labourers in Mysore in receipt of more than Rs. 300 per mensem. The waiting period of ten days specified in proviso (*a*) of sub-section (1) to Section 3 of the Regulation is proposed to be reduced to seven days.

"Under the existing exemption in proviso (*b*) of Section 3 (1) of the Regulation, the employer is not liable to pay compensation when the accident is due to specific misconduct on the part of the workman. It is now proposed to amend the section so as to make the exception inapplicable in the case of fatal accidents, as it is extremely difficult for the dependants to rebut evidence that the accident was caused by the misconduct of the deceased, especially where the employer's defence is that the workman disobeyed a 'safety' rule.

"The provision in Section 3 (4) of the Regulation limits the liability of the employer to pay compensation in the case of non-scheduled diseases to those solely and directly attributable to the specific injury. As this is unduly stringent and diseases rarely if ever can be regarded as due solely to any one cause, the words 'solely and' are proposed to be omitted in the above sub-section.

"An important change proposed to be made is the revision of the scale of compensation payable as in Schedule IV of the Regulation and the method of calculating the wages. The effect of these amendments is to enhance the compensation payable for death and for permanent disablement in the case of the more poorly paid workmen and those who are in receipt of higher wages. Compensation for temporary disablement would also be enhanced for most workmen. In place of 14 wage classes as at present, 17 have been substituted. The compensation payable in respect of a permanent total disablement of a minor is proposed to be fixed at Rs. 1,200. Both the minimum and the maximum amounts of compensation for permanent total disablement have been raised, as also the maximum half-monthly payment on account of temporary disablement.

"In the Regulation as it stands, compensation is expressed in terms of monthly wages in most cases in Section 4. It is now proposed to make certain drafting changes in Section 4 (1) so that the fiction of 'assumed wages' will disappear, and the actual amount of compensation payable can be arrived at in most cases by a reference to the revised Schedule IV read with the instructions for the calculation of the wages in Section 5.

"As it has been found that the limit of Rs. 50 fixed in Section 8 of the Regulation for payment towards funeral expenses is unnecessarily high and the payment of such amounts has led to abuses, it is proposed to reduce it to Rs. 25.

"Under the present Regulation a dependant who finds that no compensation has been deposited on account of the death of a workman has first to approach the employer. It is now laid down that no payment can be made by an employer in respect of fatal accidents or to a woman or a person under legal disability, except by deposit with the Commissioner.

"A provision has been added under Section 8 for the recovery of amounts of compensation obtained by fraud, false impersonation or other improper means.

"The requirements of the existing Section 10 of the Regulation as regards notice are found to be too stringent. There are a number of cases in which no notice is necessary and the want of a notice should not be a bar to further proceedings in cases where the employer is proved to have had the knowledge of the accident. A further proviso to this effect has been added after sub-section (1) in Section 10.

"Provision has been made for the maintenance by specified classes of employers of Notice Books on their premises readily accessible to workmen.

"The Commissioner has been empowered to require from employers statements regarding fatal accidents, and power is taken for reports of fatal accidents being made to the Commissioner promptly.

"With a view to remedy a defect in the law as it now stands, it has been now provided that a contractor may recover from a sub-contractor or any other person from whom the workmen could have recovered the compensation, the amounts advanced by such contractors on behalf of the sub-contractor.

"Under the existing Regulation no penalties have been provided for failure to submit returns under Section 15. A new section has been inserted as Section 17 A, to remedy this defect.

"The present Regulation provides for the appointment of only one Commissioner for an area; it is now proposed to take power for the appointment of more than one Commissioner having jurisdiction over the same area and to regulate the work between them.

"It is proposed to empower the Commissioner to call for a further deposit from the employer in the case of fatal accidents when the sum already deposited by the employer is found to be insufficient.

"It is doubtful if under the present Regulation the Commissioner can, without statutory authority, withhold payment of compensation, pending the result of an appeal to the High Court. It is now proposed to give him this power.

"With a view to have a more convenient system of distribution of com-

pensation amounts payable under the Regulation, it is proposed to have a new section to provide for the transfer, to other parts of British India and Indian States, of the amounts of compensation awarded in Mysore in cases where the persons entitled to them have left Mysore and are residing in British India or an Indian State and for the receipt and administration of amounts awarded outside Mysore in respect of persons who are residing or about to reside in Mysore.

"The list of persons included in the definition of 'workmen' in Schedule II of the present Regulation has been so enlarged as to include persons employed in branches of industries which are both organised and hazardous. The British Indian Act has included an entirely new class of workmen, the workers on the plantations. But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation.

"To the occupational diseases included in Schedule III of the existing Regulation, it is proposed to add diseases mentioned in Schedule III of the British Indian Act, XV of 1933 and in addition, silicosis or miners' phthisis and cyanide rash with reference to special conditions obtaining in the Kolar Gold Field area."

Mr. S. K. VENKATARANGA IYENGAR asked for information as to whether workmen on coffee estates had been brought under the definition of 'workman' and what was the basis for the sentence included in the statement of general principles, *viz.*, ". . . . . But it is expected that the increase in the number of possible claims on account of this will by no means be proportionate to the increase in the number of workers brought under the Regulation."

Mr. M. VENKATANARANAPPA replied that the number of claims for compensation would not necessarily increase with the number of workmen on the estates.

Mr. T. RAMACHANDRA congratulated the Government on having brought forward the measure which he thought was undoubtedly a progressive measure of labour legislation. But he thought that there were some points which required to be considered more liberally.

First, though the employer's liability to pay compensation would in future commence on the 8th day of the disablement of a worker instead of on the 11th day as at present—for which the thanks of the workers were due to Government—still, wages in the case of illness for even less than 7 days were to be given because, otherwise, the workers would have nothing to eat in the meanwhile. Generally speaking, workers who were all ill-paid could not lay by anything, and were utterly unable to keep body and soul together even for short periods of illness. It was common knowledge that they had to earn each day's bread and even a day without wage meant positive starvation in their case. Hence he suggested that a clause be inserted providing for payment of wages in the case of illness for even less than 7 days. If this was not considered possible, he requested that, at least, the minimum period of absence from duty be reduced to 5 days.

The FIRST MEMBER (Rajamantrapravina Diwan Bahadur K. Matthan) replied that the worker must be able to manage for such short periods at least. It was not desirable to place factory owners in Mysore in a more disadvantageous position than those in British India.

Mr. T. RAMACHANDRA then suggested that other workers like cooks in hotels be also declared entitled to compensation.

Mr. K. MATTHAN replied that their case might be examined.

Mr. B. SRINIVASA RAO observed that the provision about the liability to pay compensation should not be made applicable to small industrial concerns and private parties. For instance, if a *cooly* was engaged in building or repairing a house and sustained an accident in the course of that work, the house-owner might be regarded as employer for purposes of this Regula-

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tion and made liable to pay compensation. Such a thing, he said, should under no circumstances be stipulated.

Mr. K. MATTHAN replied that the suggestion about petty industrialists would be noted, but that there was no reason to think that house-owners would have to compensate wage-earners employed for short periods on repairing or building private buildings. In such cases generally the *coolies*, though employed for short periods on behalf of private house-owners, would have been employed on a more or less permanent basis by contractors and it might be the duty of the contractor concerned to compensate the wage-earner sustaining the accident.

Mr. J. MAHOMED IMAM also congratulated the Goverment on having brought forward the measure. He said that owners of large concerns made huge profits only with the help of their labourers, and it was but reasonable that they should help the labourers in times of distress. For this reason, he supported the bill. But the bill required improvement in certain respects. He was glad that the burden of proof was shifted from the labourer to the employer. And in cases where the employer was able to prove that an accident or even death was due to carelessness on the part of a labourer naturally no question of compensation would arise. In this view he suggested that the words "not resulting in death" occurring after the word "injuries" in Section 3 (*b*) be omitted.

Mr. K. MATTHAN replied that this point would be considered in select committee.

Mr. C. N. NARASINGA RAO also spoke in support of the measure. He thanked the Government for introducing it though the bill provided for the barest minimum claims of labourers and workmen. And he was also glad that for purposes of distribution of compensation amounts, the word "dependant" was proposed to be defined as those including illegitimate children and widowed daughters-in-law of a deceased wage-earner. But there might be yet other dependants such as widowed sisters and daughters, sisters' sons, etc., who might also be left in the lurch on account of the death of the wage-earner. He therefore suggested that the words "and any other person actually depending on such workman" be added at the end of the definition.

Mr. K. MATTHAN replied that the point might be examined. After all, it would not affect the employer because it was only a question of distribution of the same amount of compensation among all the dependants. But Government could not go on adding to the list which would have to stop at some point or other. Subject to some such reservation, he said that the question, that whoever was actually dependent upon the deceased for maintenance should receive part of the benefit of the compensation, might be examined in the select committee.

Mr. C. N. NARASINGA RAO, continuing, observed that the definition of "qualified medical practitioner" seemed to be somewhat too vague and was not found even in the British Indian Act. He wanted that it should be specifically laid down that the term included only persons registered under the Medical Practitioners' Registration Regulation.

Mr. K. MATTHAN accepted the suggestion on behalf of the Government.

Mr. C. N. NARASINGA RAO then requested that casual workers also might be included in the list of persons entitled to compensation though the British Indian Act contained no such provision. He pointed out that in order to fulfil the benevolent intention of the Regulation, it must be made applicable to all classes of employees, whether engaged on monthly or daily wages. By adopting this suggestion, Mysore would be stealing a march over British India in this respect.

Mr. K. MATTHAN replied that this Regulation was not confined to cases of accidents due to employers' negligence. The risks contemplated in the bill were only those to which employees were ordinarily subject. But nowhere in the world had the principle of casual workers also being compensated for injuries sustained by them been recognized. Further, there was no idea that the law in Mysore in this respect should

go any further than that in force in British India. For these reasons, he regretted it was not possible to accept the above said view.

Mr. C. N. NARASINGA RAO said that there would be some difficulty in stipulating that only monthly wage-earners would be entitled to compensation. If this was the law, every private employer would prefer, in order to escape payment of compensation, to show even permanent employees as daily wage-earners though payment might continue to be made once a month.

Mr. M. A. GOPALASWAMI IYENGAR pointed out that the term "who is employed otherwise than for the purpose of the employers' trade or business" would include casual workers also.

Mr. C. N. NARASINGA RAO then said that the benefit of doubt should be given to the workman in all cases in which the employer was unable definitely to prove that any accident was due to the worker's own negligence.

Mr. K. MATTHAN replied that that point might be examined.

Mr. L. VEMA REDDY, while generally supporting the measure under discussion, feared that even private agriculturists employing a large number of labourers during times of harvest might become liable to pay compensation to workmen sustaining injuries in the course of their work. He requested that the provision about compensation should not be made applicable to such cases.

Rao Sahib M. RAMASWAMY also joined in making the same request.

Mr. K. MATTHAN stated that there was no such idea. But at the same time he would ask whether a well-to-do agriculturist who was able to employ as many as 30 or 40 *coolies* for reaping a rich harvest should not be willing to afford some little relief to a poor *cooly* who might suffer injuries. But the point need not be laboured so long as the House generally agreed that the chief purpose of the measure should be that if anybody suffered on another's account, the latter should sympathise with the former and pay him something for relieving his distress.

Mr. M. S. CHANNABASAPPA enquired whether sub-clause (iii) of Schedule II would apply to large scale agriculturists employing 50 or more persons on purely agricultural work.

Mr. K. MATTHAN drew the member's attention to the definition of the term "workman" as given in Schedule II and said that it would not apply to agriculturists, agriculture not being a dangerous occupation.

Mr. R. C. MORRIS pointed out that clause (xv) of the schedule would apply to coffee estates. Presumably the workmen thereon might suffer injuries in felling rocks or trees. In this view, he wanted to know if there could be any objection to the managers of coffee estates insuring their labour and taking out policies from recognised companies as was being done under the Madras Act.

Mr. K. MATTHAN replied that there could be no objection to making a similar provision in Mysore also.

Mr. P. SUBBARAMA CHETTY prefaced his remarks with the observation that this legislation was copied from British India, which in its turn must have copied its law from England. Conditions in India being quite different from those in Western countries, he did not know why such laws should be copied from the West without considering their effect on factory owners and other large employers of labour in this country. He observed that in an important matter like this affecting trade and commerce, the Mysore Chamber of Commerce and Merchants' Associations should have been consulted before the bill was drafted. He had also his own misgivings as to whether the provisions in the bill were adequate enough to safeguard all the interests concerned. On account of continued economic depression in the country since 1929, this was hardly the time to add to the liabilities of employers.

But these observations, he said, should not be understood as meaning that he was opposed to the principle of helping those in distress. In fact, once legislation was taken up, he would suggest that even cases of permanent

injury not resulting in death, though caused by the labourers' own negligence, deserved to be treated with greater sympathy. He pointed out that the compensation payable for temporary injuries had been enhanced in the amending bill and enquired whether any prayer for such enhancement had been received in that behalf.

Mr. K. MATTHAN pointed out that even apart from petitions received in that behalf, it was a case of justice due to the workmen, and that the employers would not suffer any great hardship on account of the Regulation. He added that it was however open to the employers to protect themselves by insuring their labourers against risks by cutting down their wages, if need be, provided of course they could attract labour on such reduced wages.

Mr. P. SUBBARAMA CHETTY then suggested that employees in hotels and restaurants might also be given the benefit of compensation in all cases of accidents. He acknowledged this as an age of labour, and as he himself was a capitalist he was afraid that even if he raised objections to particular provisions of the bill, they might not command support in the House. He, however, added that Government should always try to safeguard the interests of both capital and labour and that taking sides as in the case of the bill under discussion, would not make for the prosperity of the State, especially in view of the fact that there were barely a few businessmen in the State who were worth some lakhs of rupees.

Mr. JATHARE NAIK lent unqualified support to the bill under contemplation.

Mr. K. CHENGALARAYA REDDY complimented the Government upon bringing in this measure which aimed at improving the lot of the workmen. The proposed amendments were very belated in Mysore since the law in British India had already been amended and improved on three occasions. He was particularly glad to find that the previous speaker, himself a large employer of labour, was inclined to give his general support to the bill--a circumstance which showed that even in the opinion of capitalists, workmen deserved to be protected.

As all the provisions in the amending bill were already in force in British India and were working satisfactorily, he had no hesitation in giving his support to the bill.

As regards the definition of "workman," he thought it was not quite comprehensive as it related only to those employed on monthly wages. He was afraid that the case of workmen in the Kolar Gold Field mines might not be covered by the provisions of the bill as they were all engaged on weekly wages.

Mr. K. MATTHAN replied that it was intended to apply to all workmen who were employed continuously from month to month even if their wages were paid at shorter intervals.

Mr. T. RAMACHANDRA pointed out that if the word "casual" was properly defined, the difficulty raised by the previous speaker would be solved.

Mr. K. MATTHAN promised to examine the definition once again.

Mr. K. CHENGALARAYA REDDY enquired if his presumption that the bill would apply to drivers of all motor vehicles plying for hire was correct.

Mr. K. MATTHAN replied in the affirmative.

Mr. K. CHENGALARAYA REDDY concluded with the observation that it would have been better if it was made applicable to private cars also.

Mr. Belur SRINIVASIENGAR was not in favour of the provision allowing discretion to the Commissioner in the case of pending appeals to withhold payments due to a workman unless so directed by an order of the High Court. He feared that the High Court might take long to pass final orders on the appeal of the employer and in such cases, he thought that it would not be fair to keep the dependants of the workman waiting till then. He suggested the inclusion of a section to guide the High Court as to the principles to be followed in passing final orders. He also wanted provision to be made for review applications from the dependants of wage-earners and added that discretionary power should be vested in the

Commissioner to make payment to the dependants even before the review application was disposed of, if necessary after taking proper security from them. He appealed to the Government to delete sub-section (*h*) and substitute some other provisions which would be really beneficial to the workers and make the amount of compensation readily available to the dependants. He finally requested the adoption of Sections 33 and 34 of the British Indian Act, which would give satisfaction to both labourers and their dependants.

Mr. S. K. VENKATARANGA IYENGAR, while thanking the Government for the liberal measures contained in the bill, said that certain points could be made clearer and more definite. Though it was explained on behalf of Government that casual labourers also would receive compensation, he pointed out that the word "casual" had not been defined in the Regulation. He therefore suggested the term being defined so as to make even daily wage-earners eligible for compensation provided they were men kept on for long periods.

As regards dependants declared eligible for shares in the amount of compensation awarded, he was of opinion that the analogy of Hindu law which applied to properties, need not be strictly followed in the case of payment of compensation and that the provision might be suitably amended so as to bring in foster-children also within the definition. Otherwise, some of the dependants would be left in the lurch, and in some cases, due to the absence of particular kinds of dependants, the money would go back to the employer himself. As the word "dependant" might lead to many rebuttable presumptions, it should either be made more definite or plainly left to the Commissioner and the Court. Personally he would suggest that instead of restricting the definition of dependants, foster-children or sisters' daughters or sisters' sons might also be enabled to get the benefit of compensation. If this was accepted, the bill would be an improvement even over the British Indian Act.

He also supported Mr. Subbarama Chetty's suggestion that permanently disabled men should also be given compensation though the injuries might not result in death.

As the British Indian Act included workmen employed in any manufacturing process, the member suggested the inclusion of such men also in the definition of "workman" in the bill.

Mr. K. MATTHAN replied that the question of revising sub-clause (ii) of Schedule II would be taken up along with amendments to the Factories Regulation, as the two should go side by side.

In conclusion, **Mr. VENKATARANGAIYENGAR** said that since the Model State of Mysore was anxious to join the Federal Legislature and since the bill under reference would come under Central Legislation, he appealed to the Assembly to pass it without any hesitation.

Mr. K. T. BHASHYAM AIYANGAR, speaking on behalf of wage-earners, expressed his thanks to the Government for having brought in this measure. He was glad that the measure had received the support of all the members who had so far spoken. Even Mr. Subbarama Chetty was not opposed to it. All that he wanted was that in case the employers of labour suffered any set-back, Government should take steps to better them also. The speaker had no doubt that Government would be quite prepared to do so if necessary.

The original Regulation included within its scope all "mechanically propelled vehicles," whereas in the proposed amendment, it was restricted to those plying for hire. He thought that that amendment was unnecessary.

Mr. K. MATTHAN explained that the intention of Government was not to apply it to private motor owners, though in the British Indian Act they had omitted the words "for hire." But he added there was nothing to prevent the members from proposing a further extension of the application of the provision in the Legislative Council.

As regards Section 29 A, **Mr. BHASHYAM AIYANGAR** said that he could not support Mr. Belur Srinivas-

iengar's view. He was for payment being made only after the High Court passed orders, as otherwise it might lead to complications.

He agreed with some of the previous speakers that the word "workman" should be more liberally defined. He also did not want that the benefit of compensation should be restricted only to cases where the employment of the labourer was on monthly basis. Otherwise he feared that the employers might modify the terms of employment suitably to their own convenience.

Mr. K. MATTHAN explained that if employers went on modifying the terms of appointment of workmen, they could not get sufficient labour. And in case they resorted to any kind of tricks with a view to evade the law, the Government could be relied upon to deal with them adequately.

Mr. K. T. BHASHYAM AIYANGAR also supported Mr. Venkataranga Iyengar's plea on behalf of casual labourers, disabled temporarily for a period of 7 days at a time.

The general principles of the bill were then put to vote and passed.

VII. Statement of General Principles of the Bill further to amend the Mysore District Boards Regulation, 1926.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. M. Venkatanaranappa) explained the general principles of the bill as follows:—

"The object of amending the bill is to introduce necessary changes as regards utilisation of the railway cess, which have been accepted by the Government in the Government Order on the Motor Transport Committee's Report and to bring certain other provisions in conformity with the latest legislation such as the City Municipalities Regulation of 1933. The subject was placed before the last Birthday Session of the Assembly, but a representation was made by the members that a Committee might be appointed to consider these and other amendments arising out of the resolutions passed at the Conference of the Presidents and Vice-Presidents held in February 1935. The Committee which was accordingly appointed considered the proposals for amendment. The alterations and additions recommended by the Committee and accepted by Government are embodied in the draft bill.

"The main changes sought to be introduced in the District Boards Regulation by the amending bill are the following:—

Disqualifications of Voters and Candidates.

"The disqualifications of voters are now prescribed in Section 10 of the Regulation. But this section is referred to in Section 26 as prescribing the disqualifications of candidates. These disqualifications are therefore proposed to be made applicable to candidates for election to the District Board as in the case of candidates for election to City and Town Municipal Councils. There is no necessity to prescribe any general disqualifications for voters. Hence, Section 9 is proposed to be amended accordingly.

"As regards the qualifications of candidates, there is no provision in the existing Section 11 which excludes persons who are professionally engaged or accept employment as legal practitioners on behalf of or against a District Board. Such exclusion exists in the case of candidates to City and Town Municipal Councils and it is considered necessary to include this qualification in the section.

Term of Office of Presidents and Vice-Presidents.

"Existing Section 23 of the Regulation does not indicate the date on which the term of office of the President or Vice-President of the District Board commences. With a view to remove doubts on this point, the amendment proposed makes it clear that the term commences from the date of notification of their election or appointment.

"There is no provision at present for the removal of Presidents or Vice-Presidents who are unable to pay their debts. Though a proposal to introduce this provision in the Regulation was vetoed by this House in October 1931, it is considered very necessary to make this provision, as it has since been prescribed in the case of the City and Town Municipal Councils in a modified form. Section 23 of the Regulation is accordingly proposed to be amended. The amendment also makes it clear that a person will be considered to be unable to pay his debts if he is under arrest or imprisonment in execution of the decree of any court for the payment of money due by him.

LIABILITIES OF MEMBERS OF DISTRICT BOARDS.

"The members of District Boards are now personally liable for misapplication of any money or other property of the District Boards. It is necessary to make them liable also for loss or waste of the money or property of the District Boards caused by their negligence or misconduct. The necessary addition is accordingly made in the proviso to Section 37 of the Regulation.

DUTIES OF DISTRICT BOARDS.

"Section 45 of the Regulation relating to the expenditure from the District Fund makes no distinction between the obligatory and discretionary duties of District Boards for which expenditure may be incurred. It is necessary to treat the less important duties as discretionary and also to amplify the latter as in Sections 58 to 60 of the City Municipalities Regulation. Section 45 is proposed to be amended accordingly, mentioning the duties of the Boards exhaustively with a view to remove the difficulties now felt in interpreting the section.

ESTABLISHMENT AND CONTROL OF FERRIES, MARKETS, ETC.

"Section 54 of the Regulation relating to the above has been found to be defective in many particulars and necessary amendments are proposed therein. Restrictions are also necessary as regards the opening of new public markets, and it is desirable to make provision in the Regulation for associating village panchayats with the management of local markets and to specifically exempt jatras, fairs, etc., held under the management of muzrai officers from the control of District Boards. In the case of proposals to vest the management in a village panchayat the District Board will be invariably consulted before according sanction. Section 54 is proposed to be amended accordingly.

EXPENDITURE OUTSIDE THE AREA OF DISTRICT BOARDS.

"Section 65 of the Regulation lays down that expenditure of the District Fund outside the area of the District Board can be incurred with the sanction of the Government, except in respect of certain charges for which such sanction is not required. This restriction is now proposed to be removed by amending Section 65, on the lines of Section 55 of the City Municipalities Regulation by specifying the items of expenditure which may be incurred by the Board irrespective of the Board's jurisdiction.

UTILISATION OF THE RAILWAY CESS FOR CONSTRUCTION OF ROADS AND BRIDGES.

"Under Section 68 of the Regulation as amended by Regulation II of 1932, the interest or other income derived from investment of the Railway Cess may, with the previous approval of Government, be utilised for works which may improve the means of communications in the District. The Motor Transport Committee have recommended that the Railway Cess may also be utilised similarly and Government have accepted the proposal in their order on the committee's report. It is accordingly proposed to further amend sub-section (4) of Section 68 of the Regulation so as to permit the utilisation of the Railway Cess or the interest or other income referred to above for the construction of new roads and bridges or for improvement works to existing roads in the District.

DISTRICT FUND ACCOUNTS AND ADMINISTRATION REPORTS.

"A new chapter is proposed to be substituted for Sections 76 to 79 of the Regulation after the model of Chapter XI of the City Municipalities Regulation. The new provisions provide for surcharging, on the report of Government Auditor, the persons responsible for deficiency or loss caused by their negligence or misconduct. Provision is also made for the submission to Government of the annual administration reports of District Boards, as no such provision exists now in support of the present practice.

CO-ORDINATION BETWEEN DISTRICT BOARDS AND OTHER LOCAL BODIES.

"Section 40 of the Regulation refers only to the joint committees of District Boards and Municipal Councils and Section 98 refers to the settlement of disputes between these local bodies. As a corollary to the inclusion of village panchayats in the new Section 54A, it is necessary to include village panchayats in Sections 40 and 98 and the needful addition is made in the bill as recommended by the committee.

DELEGATION OF POWERS OF GOVERNMENT.

"A new section is proposed to be introduced in the Regulation enabling Government to delegate all or any of its powers under the Regulation to any officer subordinate to it. Such an enabling provision is considered necessary.

"The other changes proposed are minor ones, being mostly verbal amendments intended to make the meaning clear or consequential on the other amendments proposed."

Mr. B. SRINIVASA RAO said that the railway cess was intended to be a temporary levy and of late years several representations were being made for its abolition. At such a time, it would not be right to propose the utilisation of that revenue for other ordinary purposes. If that proposal was accepted, the cess would become a permanent levy. The raiyats found it very difficult to bear the present burden of taxation, and the member therefore urged the immediate abolition of the railway cess at least in those districts where there was no prospect of taking up railway extensions in the near future.

Mr. B. S. PUTTASWAMY pointed out that even if the bill was passed, the railway cess would not be levied as a matter of course. What was contemplated in the bill was that in case it was levied, it might be added on to the receipts under land revenue and utilised for particular purposes mentioned in the bill.

Mr. B. SRINIVASA RAO, however, repeated that the cess must be abolished forthwith.

Mr. D. S. MALLAPPA said that the Secretary to Government who explained the general principles of the bill had referred to certain points raised in the proceedings of the committee which had been appointed to consider various amendments to the bill. In order to enable the Assembly fully to understand all those points, he suggested that the committee's report might be circulated to all the members and the bill taken up for consideration thereafter. Else, at least the various views expressed by the non-official members should be fully explained to the Assembly. He also understood that several suggestions of the non-official members had been defeated with the help of an official majority in the committee.

Speaking of the particular provisions of the bill, the member said that while in the municipal elections members could take their seats soon after the declaration of results, in the bill under discussion it was laid down that a president or vice-president could not assume office unless and until the Government issued the usual notification. But the notification might be delayed indefinitely and it would be unfair to keep the elected gentlemen out of office unnecessarily. He therefore prayed that a time limit might be prescribed within which the notification should be issued.

As regards the management and control of ferries, he suggested that instead

of giving the power to the village panchayats, it might be better to vest it in the District Board so that it might remain with one and the same co-ordinating organisation. The village panchayats also would be getting a share of the income, and so they could have no objection to such an arrangement. Similarly, the responsibility of conducting muzrai *jatras* might also be given to the District Boards.

The SECOND MEMBER (Rajamantrapravina S. P. Rajagopalachari) pointed out that only those *jatras* which were notified by the Government could be transferred to the management of District Boards. Under Section 54 (*b*), therefore, certain *jatras* would not come under the control of District Boards.

Mr. D. S. MALLAPPA, continuing, referred to Section 79 (*b*) and said that District Board Presidents should not be required to appear before the Government Auditor and give explanations. As regards the question of delegation of powers, he wanted that in the interest of prestige, Government should delegate their powers only to Heads of Departments.

He prayed that the changes indicated above might be made in the bill and the same brought up again at the next session of the Assembly.

Mr. H. KRISHNAMURTHI ACHAR generally supported the views expressed by the previous speaker. He did not favour the idea of utilising the railway cess for non-railway purposes.

Mr. S. P. RAJAGOPALACHARI pointed out that the question had been examined in detail by the Motor Transport Committee and that they had recommended the utilisation of these funds for improvement of roads, etc.

Mr. H. KRISHNAMURTHI ACHAR thought that it was a very unfair recommendation. Construction and improvement of roads was a necessary duty of Government and it would be very hard on District Boards to be called upon to take over that heavy responsibility. The hardship was all the greater in view of the fact that the District Boards were not receiving any portion of the State's income from petrol-tax revenue. He requested that liberal grants be given to the District Boards from this and other items of State revenues.

At this stage, the Assembly adjourned for lunch and met again at 3-30 p.m.

Mr. B. N. BORANNA GOWDA said that the bill required to be altered in some respects. Firstly, the provision in the bill *re.* handing over a portion of the shandy income to village panchayats was not a very satisfactory provision. The shandies held in any village would often be meant for more than one village, and if any one of the village panchayats was given a share of the income, the other panchayats would also ask for shares. And if all these claims were recognised, not only would the income of the District Boards suffer, but a sort of dual control would be established. It was very necessary that the District Boards alone should have full powers to control these shandies.

With regard to presidents and vice-presidents, the bill proposed that they should assume charge of their offices only after Government notified the results of election. But the issue of the notification might for some reason or the other be delayed, in which case, the elected persons would have to keep waiting unnecessarily. To avoid this, he suggested that the clause might be so modified as to allow elected presidents and vice-presidents to assume charge of their offices soon after the election.

In the next place, he requested that District Boards, being responsible bodies, should be authorised to correspond with the Government direct.

Lastly, he requested that suitable steps be taken to improve the District Board revenues which were falling.

Mr. K. M. KRISHNAPPA GOWDA said that the provision that no lawyer employed on behalf of a District Board or against it should stand for election would work as a great hardship. It meant that lawyers should have nothing to do with District Board work, or if they already had such work on hand, they should give it up before standing

for election. But the point was that in the elections one might or might not come out successful. The person who did not succeed would be losing in two ways. That would prevent many desirable people from standing for election. To obviate this difficulty, it would be sufficient to say that once a lawyer was elected to the Board, he should not take up work as legal practitioner either for or against the District Board.

There was a new provision inserted in the bill in the matter of the removal of the president or the vice-president if he was arrested in execution of a decree of any court. That was no doubt good in principle, but it would be sufficient to lay down that a person would forfeit his office only if he was unable to pay off his dues. It would be too hard to stipulate that for mere arrest a man would have to lay down his office, because arrest might be caused even for trivial causes on account of personal grudge.

Re. resignations by members and vice-presidents, MR. KRISHNAPPA GOWDA suggested that they should be placed before the Board.

Mr. S. P. RAJAGOPALACHARI said that the Board would meet once in three or four months and it would not be right to make the members wait for acceptance of their resignation till then.

Mr. K. M. KRISHNAPPA GOWDA said that in such cases an extra-ordinary meeting might be called for to dispose of the matter. This procedure would enable the members of the Board to know the reasons for resignation.

He did not see any necessity for the provision that the president might forbid access to members to the records since that would create ill-feelings in the Board. The president might prevent access to particular records for particular reasons. Otherwise, any member of the Board could put an interpellation asking for the records being placed on the table and himself get access to them.

He had no objection to the provision that the presidents or vice-presidents should assume charge only after Government issued the usual notifications, but he wanted that such notifications should be issued within a stipulated time. He supported the view expressed by previous speakers that the income from *jatras* should go only to the District Boards.

Referring to the preparation of voters' lists, he said that, except the cost of printing, all other items of expenditure should be met by the Revenue Department. When the Government were meeting the expenditure on scout rallies, etc., there was no reason why they should not bear the travelling allowances of polling officers and thus give some relief to the District Boards whose income was falling from year to year.

Referring to the audit of accounts, he said that even an ordinary clerk might be sent out for auditing the accounts of a District Board. Under the proposed bill, the District Board presidents would have to give their explanations before such clerks. That might mean some awkwardness to the presidents. Therefore he suggested that the minimum status of the persons who audit District Board accounts might be defined.

Mr. S. P. RAJAGOPALACHARI observed that generally the officers deputed would be of the status of Assistant Comptrollers.

Mr. D. S. MALLAPPA said that the District Board presidents, being honorary workers, should be treated with due respect and should not be made to render accounts and explanations to ordinary accountants and auditors.

Mr. S. P. RAJAGOPALACHARI said that the person in charge of accounts would be asked to render accounts and not the president, as would be clear from a perusal of the clause.

Mr. K. M. KRISHNAPPA GOWDA said that the clause *re.* delegation of powers of Government was very vague. It was not clear to whom they would delegate their powers.

Mr. S. P. RAJAGOPALACHARI said that this question had been discussed in great detail when the municipal

bills were before the House and the Dewan had then stated that it was not possible to be too definite in such matters. And so, there was no use pressing the point further. But he would add that members could rest satisfied that Government would delegate their powers only to responsible officers.

Mr. G. CHANNAPPA suggested that the system of pre-audit might be introduced in the District Boards also.

Mr. S. P. RAJAGOPALACHARI said that, as was stated by him in the Committee, the Government would have no objection to introduce it if any District Board asked for it.

Mr. H. B. GUNDAPPA said that, viewed from any point, the policy of the Government in respect of District Board administration seemed to be to curtail the powers of these local bodies. The Dewan had, in his opening address to the Assembly, congratulated the non-official members on the very keen interest they were evincing in local affairs and in reply, Mr. Chengalaraya Reddy had said that if heavier responsibilities were given to the non-officials, they would cheerfully bear them. But far from entrusting them with such responsibilities, as a matter of fact the powers of these local bodies were being curtailed in addition to a steady depletion of their funds. For example, when the Village Panchayat Regulation was introduced, *mohatarfa* income was transferred to village panchayats. The Road Traffic Bill was introduced and as a result thereof, the District Boards lost much of their income from tolls. It looked as though the introduction of any new local self-government measure meant the curtailment of powers and also of sources of revenue of the District Boards. Year after year, the administration reports of the District Boards were showing that the financial position of local bodies was going from bad to worse This was particularly so in respect of the Hassan District. In spite of it, there was no provision in the bill before the House which was calculated to bring in more income to local bodies. On the other hand, there had been certain proposals which would result in further reducing their income. The handing of a portion of the income from shandies and *jatras* to village panchayats was an instance in point. As a result of all these provisions, the income of the District Boards would considerably fall. At the same time, those bodies could not but continue to incur heavy expenditure on maintenance of roads, medical aid and so on. While thus the District Boards were not financially well off, the Government were not allowing the village panchayats to spend their accumulated funds. At that rate, he asked, what was the need to keep the District Boards at all? They had not even the power exercised by city municipal councils—of maintaining their own establishments for carrying out public work. He therefore requested that the District Board administration should be liberalised and non-officials given greater powers and thus encouraged to work with greater interest.

Referring to the provision in the bill for making the members liable for loss or waste of money or property of the Board caused by their negligence or misconduct, MR. GUNDAPPA said that the word "negligence" was too strong a term and its retention in the bill would prove harmful to the members. So far, there had not been any instance of loss of property due to negligence. Even in the Municipal Regulation, there was no such provision. There was no necessity to introduce the language of the Indian Penal Code in this Bill.

Mr. S. P. RAJAGOPALACHARI pointed out that a similar provision existed in the Municipal Regulation also.

Continuing, MR. H. B. GUNDAPPA said that the provision relating to the removal from office of the president or vice-president if he was arrested in execution of a decree of any court was too harsh. He was at a loss to know why these people should be treated so severely while officers of Government against whom decrees were passed and whose salaries were constantly being attached were allowed to continue in service.

Mr. S. K. VENKATARANGA IYENGAR said that the grievance of Mr. H.B. Gundappa seemed to be that the powers of District Board presidents were not commensurate with the responsibilities which they were asked to shoulder. But he himself did not share that view. On the other hand, it looked to him as though the District Board presidents were asking for more powers without, at the same time, having the willingness to bear further responsibilities. What was proposed in the bill was to give a higher status to the District Boards—the status of city municipalities—by introducing some of the provisions of the City Municipal Regulation into it. It was also remarked that the town municipalities were in a much better position than the District Boards in that they could spend larger amounts than District Boards. To this, his reply was that under the City Municipalities Regulation, the maintenance of an Engineer or a Commissioner or a Chief Officer was an obligatory duty, and if the District Boards agreed to take up this statutory duty, they could be given larger powers so as to execute all the works themselves. But supervision was more important than mere establishments with regard to public works. The presidents could not themselves supervise the works, because they were not technical men and had to depend upon sanitary inspectors for advice.

Mr. H. B. GUNDAPPA enquired whether the local bodies in the Madras Presidency were not enjoying larger powers.

Mr. S. K. VENKATARANGA IYENGAR said that the Government there had begun to realise their mistake and were slowly reducing the powers of the District Boards in this respect.

Messrs. G. CHANNAPPA and **B. S. PUTTASWAMY** said that the District Boards were perfectly willing to maintain their own engineering establishments, but the Government had not sanctioned their request so far.

Proceeding, **Mr. S. K VENKATARANGA IYENGAR** agreed that it was very undesirable to have indebted people as presidents or vice-presidents, particularly in view of the powers they had. Such indebted people should not be allowed to handle public money. The provision in the bill in regard to this was very necessary and no one need think that he was going to lose anything as a result of its existence.

Regarding the provision for audit, MR. VENKATARANGA IYENGAR pointed out that a similar provision was to be found in the Municipal Regulation. None of the District Board presidents raised any objection to it when that Regulation was under discussion, but it was significant that all the presidents should be raising a hue and cry over it now that it was proposed to be included in the District Board Regulation also. He emphasized that the provision proposed was very sound and that the members, instead of opposing or resenting it, ought to welcome it.

In conclusion he said that, on the whole, the bill was an improvement over the existing law in that it proposed to give a better status to District Boards. In this view, he hoped that the House would pass it without hesitation.

Mr. M. SIDDALINGA SETTY said that the people of the Kadur District had already paid over 12 lakhs of rupees by way of railway cess for the past many years hoping that they would get railway facilities in their district sooner or later. So they were not at all in favour of the railway cess being utilised for road improvements. Already a sum of nearly Rs. 25,000 had been spent out of it and he requested that the fund should not be further depleted.

Mr. H. K. MADIAH requested that members of the House might be enlightened as to the opinions expressed before the special committee on various matters by non-official members of the committee who were also presidents of District Boards.

Mr. W. H. HANUMANTHAPPA said that both the District Boards and the Government should have rule-making powers. Secondly, he suggested that a time limit should be fixed within which, after the election results were announced, the Government notification

concerning the same should be issued. Otherwise, there might be room for inordinate delay.

Regarding liabilities of District Board members, he suggested on the analogy of the Municipal Regulation, that the words "misapplication of funds" be inserted in place of "negligence."

Mr. S. P. RAJAGOPALACHARI observed that Section 210 (2) of the Municipal Regulation also contained the same word.

Mr. W. H. HANUMANTHAPPA then suggested that the restrictions now imposed in the case of municipalities about private markets might be adopted in the case of District Boards also. As regards the provisions relating to audit, he said that they were very sound and needed no change.

In conclusion, he requested that larger powers and privileges be given to the District Boards in view of the burdens they were shouldering and also with a view to enable them to work more harmoniously.

Mr. S. C. MALLIAH said that it was not right for District Boards to take away the entire income from shandies in which people from many villages would participate. Since the shandies would be held in the villages, the District Boards also would give some facilities for conducting them. It was only fair that the income should be shared by all the bodies concerned.

He also agreed with the previous speakers that a time limit should be fixed within which the Government notification should issue in the matter of election results, so that the president or the vice-president might not needlessly be prevented from assuming office. With these remarks, he supported the measure.

Mr. J. MAHOMED IMAM said that the introduction of any new legislation would affect certain people and it was usual for such persons to oppose it. But on that one ground alone, the legislation should not be rejected. If the legislation was such as would rectify any existing defects or remove any existing disadvantages, it ought to be accepted even ignoring the opposition from a few individuals. One of the most important amendments proposed in the bill related to the utilisation of railway cess fund for road improvements. For some time past, all District Boards, except perhaps those of Kadur and Kolar, were making requests to Government in this respect, as they had no other means of improving their roads. Mr. Siddalinga Setty, one of the previous speakers, was very emphatic that the railway cess fund should on no account be diverted for other purposes, but utilised only for railway expansion. But the speaker did not share that opinion. Some experts had expressed the view that expenditure on railway extensions would often result in loss. Diversion of railway cess funds for road purposes would be very much more useful to the public than for extension of railways. Bus traffic had come to stay in many parts of the State and good roads had therefore become a desideratum.

Regarding the provision relating to the removal of presidents and vice-presidents on account of indebtedness, MR. MAHOMED IMAM said that only persons who were free from indebtedness could discharge their duties without fear or favour. It might be that a particular set of presidents were free from indebtedness, but the Regulation was intended for all time and for all persons, and so there could be no objection to provision being made in the bill as proposed.

He agreed with the previous speakers that in the clause relating to the liabilities of District Board members, it would be sufficient to say "misapplication of funds" in place of the word "negligence" as the latter was too strong a word.

In conclusion he said that, on the whole, there were many useful provisions in the bill and for that reason, he had great pleasure in supporting it.

Mr. Tudki RAMANNA GOWDA was also in favour of the provision regarding the utilisation of the railway cess for road improvements. He said that as against one mile of railway, nearly 80 to 90 miles of road could be opened up for bus traffic with the same

amount. In the malnad, the condition of roads was very bad and the District Boards had no money to improve them. If these roads had to be improved at all, a portion of the railway cess fund would have to be utilised.

Secondly, he said that for District Board elections there was no restriction as in municipal elections that a candidate seeking election from a certain locality should have been residing in that locality for at least six months prior to the election. The absence of such a clause had resulted in people from cities and towns getting elected as presidents and vice-presidents of the District Boards, much to the prejudice of the interests of people in rural parts. To get over this defect, it should be made a rule that only those living in the particular areas for some time prior to the elections, should stand for election to District Boards.

In regard to the income from shandies, he was of opinion that it should go exclusively to the District Boards.

Mr. C. R. NIRVANAPPA SETTY said that the railway cess fund should be utilised only for railway extensions, and if this was not possible, the levy of the cess should be discontinued. The fund should on no account be diverted for any other purpose.

The DEWAN said that motor buses had taken the place of railways and diversion of the cess funds for purposes of road improvements could by no means be objectionable.

Mr. Bagamane DEVA GOWDA said that the proposal of the Kadur District Board was to permit them to utilise for road improvement purposes only the interest earned on the cess fund and that there was no proposal to deplete the corpus of the fund.

Mr. C. R. NIRVANAPPA SETTY said that the raiyats would not agree to the diversion of even the interest on the fund for non-railway purposes. If they came to know that all programmes of railway extension were given up, they would no longer agree to pay the cess. Instead, therefore, of giving up such programmes and using up the available funds for other purposes, he would much rather that the cess was levied in future also, railway development being taken up as and when convenient.

Mr. MEER MAHOMED SAHIB, agreeing in this view, suggested that the clause relating to this matter be definitely deleted from the bill.

Mr. SYED MOHIYUDDIN HUSSAIN said that he would much rather allow diversion of the education cess fund for road improvement than that of the railway cess fund or even the interest for that purpose. People were continuing to pay the cess in the hope that they would get railway facilities some day or other and there would be no justification in District Boards utilising it for road improvement.

The House rose at 5 p.m. to meet again at 12 of the clock the following day.

FOURTH DAY.

Friday, 11th October 1935.

The House reassembled at 12 of the clock.

QUESTIONS AND ANSWERS—
(contd.)

Thippaganahalli Project in Goribidnur Taluk.

Q.—17. Messrs. R. P. RAJANNA and **G. VENKATASWAMI GOWDA** (Goribidnur Taluk).—Will the Government be pleased to state

(*a*) do they propose to undertake immediately the construction of the "Thippaganahalli project" in Goribidnur Taluk;

(*b*) if so, are the estimates and the plan ready in that connection;

(*c*) how long will it take for completion of this work?

A.—The SECRETARY to GOVERNMENT, PUBLIC WORKS DEPARTMENT (Diwan Bahadur N. N. Ayyangar).—

(*a*) The matter is under the consideration of Government.

(*b*) Alternative estimates are under preparation